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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,509	12/10/2003	Keiichi Aoyama	03500.017777.	4629
5514 7590 01/16/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER KE, PENG	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 01/16/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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09/03/2008	PAPER

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/731,509	AOYAMA ET AL.	
	Examiner	Art Unit	
	SIMON KE	2174	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 7, 8, 11 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 8, 11, and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This action is responsive to communications: Amendment, filed on 6/21/08.

Claims 1, 7, 8, 11, and 14-17 are pending in this application. Claims 1 and 11 are independent claims. In the Amendment, filed on 6/21/08, claims 4, 5, 12, and 14 are cancelled, and claim 1, 7, 11, and were amended, and claims 15-17 were added.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8, 11, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Straub US Patent 5,905,492 in view of McEvilly US Patent 2003/0151621.

As per claim 1, Straub 5,905,492, teaches a digital broadcasting receiver, comprising:  
receiving means for receiving GUI data the GUI data, including keyword information relating to the GUI data; (see Straub; col. 5, lines 65-col. 6, line 16)

installing means for selectively installing the GUI data received by said receiving means;  
(see Straub; (see Straub, col. 2, lines 50-col. 3, lines 6)

displaying means for displaying the installed GUI data on the display unit; (see Straub, col. 2, lines 50-col. 3, lines 6; col. 5, lines 65-col. 6, lines 16) and

storage means for storing a user's preference information, wherein, after said receiving means receives the GUI data, said installing means effects comparison as to whether the

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keyword information relating to the GUI data corresponds to the user's preference information, displays a selecting screen for causing a user to select whether or not to install the corresponding GUI data if the keyword information corresponds to the user's preference information, and executes installation of the GUI data if the user selects installation thereof on the displayed selecting screen. (see Straub, col. 7, lines 5-20; the title of the currently selected theme is the keyword; col. 8, lines 5-35)

However, Straub fails to teach receiving a broadcasting wave including a digital television signal.

McEvelly teaches receiving a broadcasting wave including a digital television signal. (see McEvelly, paragraph 0072)

It would have been obvious to an artisan at the time of the invention to include McEvelly's teaching with method of Straub in order allow users to update their television's graphical interface.

As per claim 7, Straub and McEvelly teaches a digital broadcasting receiver according to claim 1. McEvelly further teaches wherein:

the keyword information is characteristics information of a remote control;  
the preference information is tendency information for a user's operation; and  
the GUI data to be installed is selected based on comparison between the characteristics information and the tendency information. (see McEvelly, paragraphs 0231—0234 and 0252)

As per claim 8, Straub and McEvelly a digital broadcasting receiver according to claim 7. McEvelly further teaches wherein the tendency information includes at least one of a history of

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an operation for executing a given function, a type of mis-operation caused before execution of the given function, a hand holding the remote control, and information as to whether the remote control is laid in use or held in use. (see McEvilly, paragraph 0276; paragraph 0138,)

As per claim 11, it is rejected under the same rationale as claim 1. Supra.

As per claim 14, it is rejected under the same rationale as claim 7. Supra.

As per claim 15, Straub and McEvilly teach a digital broadcasting receiver according to claim 1. Straub teaches wherein the GUI data comprises data for changing a menu in a graphical user interface. (see Straub, col. 2, lines 50-col. 3, lines 6)

As per claim 16, Straub and McEvilly teach a digital broadcasting receiver according to claim 1. Straub teaches wherein the GUI data comprises a menu screen image. (see Straub, col. 2, lines 50-col. 3, lines 6)

As per claim 17, Straub and McEvilly teach a digital broadcasting receiver according to claim 1. wherein the GUI data comprises data for changing a menu to correspond to a remote control(see McEvilly, paragraphs 0231—0234 and 0252)

***Response to Arguments***

Applicant's arguments with respect to claims 1, 7, 8, 11, and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIMON KE whose telephone number is (571)272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

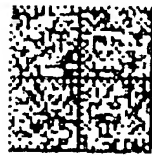
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Primary Examiner, Art Unit 2174



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